

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**May 31, 2001**

## DIVISION ONE

B136857 People (Not for Publication)  
v.  
Benton

The order is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.  
Mallano, J.

B140563 Shama, LLC, et al. (Not for Publication)  
v.  
Alameda Corridor Transportation Authority

The judgment is affirmed. ACTA is awarded its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Mallano, J.

B133978 Hess (Not for Publication)  
v.  
Lambert et al.

The judgments of dismissal are affirmed. Respondents are awarded their costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Mallano, J.

DIVISION ONE (Continued)

B148045      City Of Pomona et al.                      (Certified for Publication)

v.

Superior Court, Los Angeles County  
(James Jones Company et al., r.p.i.)

The petition for writ of mandate is granted. Let a peremptory writ of mandate issue forthwith commanding the superior court to set aside its order of January 19, 2001 dismissing the first cause of action of the City's complaint, in which the City alleges violation of the California False Claims Act. The court is directed to enter a new and different order overruling defendants' demurrer. Petitioners are to recover costs.

Spencer, P.J.

We concur:   Ortega, J.  
                    Mallano, J.

B140402      Meringoff et al.                      (Not for Publication)

v.

Spiegel et al.

The judgment is reversed and the cause is remanded to the trial court with directions to enter a new order denying Defendants' motion for summary judgment and to set the case on track for trial. Plaintiffs are entitled to their costs of appeal.

Vogel (Miriam A.), J.

We concur:   Spencer, P.J.  
                    Ortega, J.

DIVISION ONE (Continued)

B142962      Colmenares                      (Certified for Publication)  
                 v.  
                 Braemar Country Club, Inc.

The judgment is affirmed. Braemar is entitled to its costs of appeal.

Vogel (Miriam A.), J.

We concur:    Spencer, P.J.  
                 Ortega, J.

B136160      Duffy                                      (Not for Publication)  
                 v.  
                 Duffy

The judgment is reversed insofar as it finds that Vincent Duffy breached a fiduciary duty owed to his spouse, Patricia Duffy, and awards damages therefor. In all other respects, the judgment is affirmed. Appellant Vincent Duffy is to recover costs on appeal.

Spencer, P.J.

We concur:    Vogel (Miriam A.), J.  
                 Mallano, J.

B140744      Daniel Boulange                      (Not for Publication)  
                 v.  
                 T.I.B. Insurance Brokers

The order is affirmed.

Spencer, P.J.

We concur:    Ortega, J.  
                 Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B144058      Daniel Boulange                      (Not for Publication)  
                 v.  
                 Carolina Casualty Company

The judgment is affirmed.

Spencer, P.J.

We concur:   Ortega, J.  
                 Vogel (Miriam A.), J.

B144079      Los Angeles County, D.C.S.              (Not for Publication)  
                 v.  
                 Eugene S.

The order is affirmed.

Spencer, P.J.

We concur:   Ortega, J.  
                 Vogel (Miriam A.), J.

B141398      Larry Stokes                                  (Not for Publication)  
                 v.  
                 SCE Corp, et al.

The order is affirmed.

Spencer, P.J.

We concur:   Ortega, J.  
                 Mallano, J.

DIVISION ONE (Continued)

B141408      People v. Thanh H.      (Not for Publication)  
B145914      In re Thanh H. on Habeas Corpus.

The order of wardship is reversed. The petition for writ of habeas corpus is dismissed as moot.

Mallano, J.

We concur:    Spencer, P.J.  
                         Ortega, J.

B143225      Keshishyan      (Not for Publication)  
                         v.  
                         Jogin et al.

The order is affirmed.

Mallano, J.

We concur:    Spencer, P.J.  
                         Vogel (Miriam A.), J.

B138652      County of Los Angeles      (Not for Publication)  
                         v.  
                         Latouf

The order denying defendant's motion to vacate the judgment is affirmed.

Mallano, J.

We concur:    Spencer, P.J.  
                         Ortega, J.

May 31, 2001-Continued

## DIVISION ONE (Continued)

[illegible]

The order of October 5, 2000, is modified to delete any reference to Welfare and Institutions Code section 707, subdivision (b), and to provide an award of 236 days predisposition custody credit. As modified, the order of wardship is affirmed.

Mallano, J.

We concur: Spencer, P.J.  
Ortega, J.

B144412      People      (Not for Publication)  
v.  
Jason Eric Mac Neil

The judgment (order granting probation) is affirmed.

Mallano, J.

We concur: Spencer, P.J.  
Ortega, J.

B145132      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Yvette B.

The order under review is affirmed.

Mallano, J.

We concur: Spencer, P.J.  
Vogel (Miriam A.), J.

May 31, 2001-Continued

## DIVISION ONE (Continued)

B143114      Mary Stark                          (Not for Publication)  
v.  
May Department Stores Company

The trial court's June 30, 2000 order is reversed to the extent it granted the motion to tax costs with respect to plaintiff's request for attorney's fees. On remand, the trial court shall determine the amount of attorneys' fees to which plaintiff is entitled. Plaintiff is entitled to costs on appeal.

Mallano, J.

We concur: Spencer, P.J.  
Vogel (Miriam A.), J.

DIVISION TWO

B144702      People                                  (Not for Publication)  
v.  
Williams, Jr.

The judgment is reversed as to count 2, the robbery of Tracy Andrada, and the matter is remanded for a new trial on that count. In all other respects, the judgment is affirmed.

Todd, J.

We concur:   Boren, P.J.  
                      Nott, J.

B136115      Community Redevelopment      (Certified for Publication)  
 Agency of City of Los Angeles  
 v.  
 County of Los Angeles et al.

The judgment is affirmed.

Boren, P.J.

We concur: Cooper, J.  
Todd, J.

## DIVISION TWO (Continued)

B133792      Bondurant                                  (Not for Publication)  
v.  
South Bay Medical Center et al.

There is no triable issue of material fact whether conduct of SBEMA violated Bondurant's right to privacy. No evidence or inference supports the conclusion that SBEMA disclosed or caused to be disclosed any medical or other information regarding Bondurant. Thus, the trial court was correct in granting summary judgment in SBEMA's favor. The summary judgment motions of SMBC and EGO are reversed. There are triable issues of fact regarding who delivered the ER report to the USAF and whether Bondurant waived his expectation of privacy. On the facts are presented in the summary judgment motions, the affirmative defenses do not defeat the action as a matter of law. SBEMA to receive costs on appeal from Bondurant. Bondurant to receive costs from SBMC and EGO.

Cooper, J.

We concur:   Nott, Acting P.J.  
                      Todd, J.

B138105 Molina (Not for Publication)  
v.  
Park

The order denying the Doe amendment is affirmed. The parties are to bear their own costs on appeal.

Cooper, J.

We concur:   Boren, P.J.  
                      Nott, J.



May 31, 2001-Continued

DIVISION THREE

[illegible]

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

B140770 People (Not for Publication)  
v.  
Sok

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

B142586 People (Certified for Publication)  
v.  
Rodriguez

The judgment is modified by reducing each of the section 1202.4, subdivision (b), and section 1202.45, restitution fines to \$10,000, and, as modified, the judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.  
Fidler, J. (Assigned)

### DIVISION THREE (Continued)

B142113 People (Not for Publication)  
v.  
Ward

The judgment is affirmed.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                  Fidler, J. (Assigned)

B140877 People (Not for Publication)  
v.  
Solis

The judgment is affirmed.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

B130656 Coastal Delivery Corporation et al. (Not for Publication)  
v.  
Nisco Pacific Corporation, et al.

The judgment is affirmed. The parties shall bear their own costs on appeal.

Croskey, Acting P.J.

We concur: Aldrich, J.  
Fidler, J. (Assigned)

### DIVISION THREE (Continued)

B140303 Merin (Not for Publication)

**V.**

Barlow Respiratory Hospital et al.

The judgement is reversed. The trial court is directed to vacate its orders sustaining the demurrers to plaintiff's First and Second Amended Complaints, as well as the order granting defendants' motion to strike portions of the First Amended Complaint. The trial court shall enter new orders overruling the demurrers to such complaints, and denying the motion to strike portions of the First Amended Complaint. The trial court shall give defendants a reasonable amount of time within which to answer the First Amended Complaint.

Plaintiff is awarded her costs on appeal, and, in the event she ultimately prevails on her causes of action involving elder abuse, the trial court shall determine her entitlement to attorney fees in connection with this appeal, pursuant to Welfare & Institutions Code section 15610.57.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

B141598 Henson (Not for Publication)

V.

Panlasigui et al.

The judgment is affirmed. The Panlasiguís are awarded their costs on appeal. The Panlasiguís' motion for sanctions is granted. Sanctions in the amount of \$4,270.00 are awarded in favor of the Panlasiguís and against Amante Pimental, Glorieta's appellate attorney. Pursuant to Business and Professions Code section 6086.7, subdivision (c), the clerk of this court is directed to send a copy of this opinion to the State Bar.

Croskey, J.

We concur: Klein, P.J.  
Kitching, J.

DIVISION THREE (Continued)

B137132      First Commercial Mortgage Company      (Certified for Publication)  
v.  
Donald R. Reece et al.

The judgment is reversed. Appellant(s) to recover costs.

Klein, P.J.

We concur:    Croskey, J.  
                  Kitching, J.

B139452      Robert E. McClellan, etc.      (Certified for Publication)  
v.  
Northridge Park Townhome Owners Association, Inc.

The judgment is affirmed. Respondent(s) to recover costs.

Klein, P.J.

We concur:    Croskey, J.  
                  Kitching, J.

B135330      People      (Not for Publication)  
v.  
McGinnis

The judgment is modified to award 89 days of presentence conduct credit pursuant to section 2933.1, subdivision (c). The clerk of the superior court is ordered to prepare an amended abstract of judgment as set forth in this opinion and to forward a corrected copy to the Department of Corrections. In all other respects, the judgment is affirmed.

Aldrich, J.

We concur:    Kitching, Acting P.J.  
                  Fidler, J. (Assigned)

### DIVISION THREE (Continued)

B139931 People (Certified for Publication)  
v.  
Chavez

The judgment is affirmed.

Fidler, J. (Assigned)

We concur:   Kitching, Acting P.J.  
                  Aldrich, J.

B131744 Gloria L. Persinski (Not for Publication)  
v.  
Cynthia A. Boxrud et al.

The judgments as to Fett and as to Boxrud are reversed. With regard to Fett, the order denying Persinski's motion for relief from judgment, and the judgment granting summary judgment, are reversed and the matter is remanded with directions for the trial court to make a determination of the amount of Fett's legal fees and costs and to order attorney Williams to pay that amount as reasonable compensatory legal fees and costs to Fett's counsel or to Fett. Within five days of issuance of the remittitur, Williams is order to serve a copy of this opinion on appellant Persinski and within five days thereafter, file proof of service with the clerk of this court. Costs on appeal are awarded to Persinski.

Kitching, J.

We concur: Klein, P.J.  
Aldrich, J.

DIVISION THREE (Continued)

B142625      In re Leon Casey Alva                      (Certified for Publication)  
                 on Habeas Corpus

For the foregoing reasons, the petition for a writ of habeas corpus is denied.  
The Order to Show Cause issued on October 25, 2000, is discharged.

Fidler, J. (Assigned)

We concur:    Kitching, Acting P.J.  
                 Aldrich, J.

B142077      Los Angeles County, D.C.F.S.      (Not for Publication)  
                 v.  
                 Rafael M.

The judgment is affirmed.

Aldrich, J.

We concur:    Kitching, Acting P.J.  
                 Fidler, J. (Assigned)

B142127      People  
                 v.  
                 Roberto Vasquez

Filed order vacating submission order of February 26, 2001 due to the press  
of other court business and the complexity of the issues. Cause  
resubmitted.

May 31, 2001-Continued

### DIVISION THREE (Continued)

[illegible]

The judgment is affirmed.

Croskey, Acting P.J.

We concur:   Kitching, J.  
                  Fidler, J. (Assigned)

DIVISION FOUR

B144126      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Deborah A.

The order terminating parental rights is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Curry, J.

[illegible]

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.  
Curry, J.

## DIVISION FOUR (Continued)

B138808 People (Not for Publication)  
v.  
Griffin

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.  
Hastings, J.

DIVISION FIVE

B138516 Richard Eisen et al. (Not for Publication)  
v.  
Darling, Hall & Rae et al.

The appeal is dismissed. The parties are to bear their own costs on appeal.

Grignon, J.

We concur:   Turner, P.J.  
                      Armstrong, J.

B144333 TrafficSchoolOnLine, Inc.  
v.  
Superior Court of Los Angeles  
Frederick Ohlrich, as Administrator, etc., et al.

Filed order modifying opinion. (No change in the judgment)



DIVISION FIVE (Continued)

B148019      Steve Cooley                      (Not for Publication)

v.

Superior Court, Los Angeles County  
(Dwayne Edwards, r.p.i.)

The petition for a writ mandate is denied. The trial court may proceed with the probable cause hearing previously scheduled. The stay of this matter shall be dissolved upon the opinion becoming final.

Armstrong, J.

We concur:    Grignon, Acting P.J.  
                    Willhite, J. (Assigned)

DIVISION SIX

Court convened at 9:33 A.M.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. and J. Terry, Deputy Clerk

B142957      Child Protective Services v. Donna B.

Argument waived; cause submitted.

B141923      Henkels

v.

Henkels

Merits:

Argued by Gertrude D. Chern for appellant. Argument waived by respondent. Cause submitted.

DIVISION SIX (Continued)

B145085      Guidotti  
                 v.  
                 Lockyer

Merits:  
Argued by Anne Cyr for appellants. No appearance by respondent. Cause submitted.

B129570      Carranza  
                 v.  
                 Chubb & Son, Inc.

Merits:  
Argued by John Dorwin for appellants and by Antony Abdollahi for respondents. Cause submitted.

B143406      Reed  
                 v.  
                 Santa Barbara County

Merits:  
Argued by David L. Reed, appellant in propria persona. Argument waived by respondents. Cause submitted.

B147202      San Luis Obispo County  
                 v.  
                 San Luis Obispo Superior Court  
                 (Jack Munari, r.p.i.)

Merits:  
Argued by Raymond A. Biering, deputy county counsel, for petitioner and by William S. Walter for respondent. Cause submitted.

DIVISION SIX (Continued)

B140719     Miller  
              v.  
              City of Pismo Beach

Merits:

Argued by Paul A. Geihs for petitioners, appellants and cross-appellants Miller and Roscamp and by Kevin Morris for real party in interest, appellant and cross-appellant Ed Dorfman. Argument waived by respondent City of Pismo Beach and by real party in interest and appellant Lee Webb. Cause submitted.

Court adjourned at 11:04 A.M.

B145635     D. Henry & Sons, Inc.     (Not for Publication)  
              v.  
              Underwood et al.

The appeal is dismissed. Costs are awarded to respondent.

Gilbert, P.J.

We concur:    Yegan, J.  
                  Coffee, J.

B141479     People                             (Not for Publication)  
              v.  
              Magallon

The judgment is affirmed.

Perren, J.

We concur:    Gilbert, P.J.  
                  Yegan, J.

## DIVISION SIX (Continued)

B142386 People (Not for Publication)  
v.  
Rendon et al.

The judgments are affirmed.

Gilbert, P.J.

We concur: Yegan, J.  
Coffee, J.

B146627      People                          (Not for Publication)  
v.  
King

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

## DIVISION SEVEN

B142234      Townsend  
v.  
Rose et al.

Filed order denying petition for rehearing.

B136394      Kahen  
v.  
Farmers Insurance Exchange

Filed order denying petition for rehearing.

DIVISION SEVEN (Continued)

B138229 Smolker et al.

v.

Thompson et al.

B149491 Smolker et al.

v.

Pacific Villas Homeowners Association

Filed order consolidating above captioned appeals.